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TO SECSTATE WASHDC 9925

C O N F I D E N T I A L SECTION 01 OF 02 LOME 04130

E.O. 12065: RDS 8/28/95 (JOHNSON, MARILYN P.) OR-M
TAGS: SHUM, ICRC, TO
SUBJECT: AMNESTY INTERNATIONAL (AI) REPORT

REFS: (A) STATE 212007, (B) LOME 3813, (C) STATE 210840, (D) 79 LOME 2671, (E) 78 LOME 3665, (F) LOME 1468

1. CONFIDENTIAL - ENTIRE TEXT

2. EMBASSY AGREES WITH PARA 2 REF A THAT ASSISTANT SECRETARY MOOSE MIGHT DISCUSS CERTAIN ASPECTS OF AI REPORT DURING HIS CALL ON TOGOLESE MINISTER OF JUSTICE PROPOSED FOR MORNING OF SEPTEMBER 4. ALTHOUGH MINISTER KODJOVI MAY CONTINUE TO FUDGE ON THE OPPORTUNE MOMENT FOR A VISIT BY ICRC (REF B), WE BELIEVE THIS IS AN APPROPRIATE POINT FOR ASSISTANT SECRETARY MOOSE TO RAISE WITH HIM. IT MAY BE LINKED TO SUGGESTION ON ICRC VISIT MADE DURING HIS TALKS WITH THE LIBERIANS. DISTINCTION SHOULD BE MADE, HOWEVER, BETWEEN THE LIBERIAN CASE AND TOGO'S. NO POLITICAL PRISONERS HAVE BEEN STRUNG UP AND SHOT OR OTHERWISE PUBLICLY EXECUTED IN TOGO.

3. LEGAL PRINCIPLES OF ARREST AND DETENTION WITHOUT CHARGE, TRIAL OR JUDICIAL REDRESS, AND INDEPENDENCE OF THE JUDICIARY ARE LEGITIMATE SUBJECTS FOR TOP USG REPRESENTATIVE TO DISCUSS HERE. PRISON CONDITIONS MAY WELL BE ALSO, BUT HE WHO MAKES PITCH SHOULD BE PREPARED TO FIELD A LINE DRIVE FROM THE TOGOLESE FOR AMERICAN AID IN IMPROVING OR BUILDING PRISON FACILITIES. FREEDOM OF EXPRESSION OF OPINION AND OF PRESS ARE DEMOCRATIC PRINCIPLES WHICH ARE WORTHY OF DISCUSSION WITH ALL TOGOLESE INTERLOCUTORS, BUT MEMORIES OF THE ATTEMPTED MERCENARY COUP ARE KEPT ALIVE BY AUTHORITIES HERE. STATE SECURITY AND THE NEED FOR POLITICAL UNITY AT THIS STAGE OF TOGO'S DEVELOPMENT ARE ROUTINELY CITED AS REASONS FOR NEED TO DOWNPLAY DISSENSION.

4. MATTERS OF RELEASE OF REMAINING PERSONS CONVICTED CONFIDENTIAL

OF CONSPIRING TO OVERTHROW THE GOVERNMENT, AND OF HEALTH AND WHEREABOUTS OF THOSE CONVICTED MIGHT BE BETTER LEFT TO AI OR ICRC REPRESENTATIVES. MINISTER OF JUSTICE MIGHT PARROT TO ASSISTANT SECRETARY RESPONSES GIVEN TO AMBASSADOR BY PRESIDENT EYADEMA WHEN THESE QUESTIONS WERE RAISED. THE PRESIDENT SAID THAT THE TWO CONVICTED OF COMPLICITY IN THE MERCENARY PLOT WHO REMAIN IN PRISON WERE NOT RELEASED WITH THE OTHERS IN ORDER TO PROTECT THEM FROM TOGOLESE CITIZENS LIABLE TO UNDERTAKE SUMMARY JUSTICE. ACCORDING TO PRESIDENT EYADEMA, INFORMATION ON THOSE HE PARDONED JANUARY 13 COULD BE OBTAINED FROM THE GENDARMERIE. THE EMBASSY HAS NOT BEEN ABLE TO OBTAIN THIS THROUGH OBLIQUE INQUIRIES.

6. DETENTION WITHOUT TRIAL - TOGOLESE LEGAL AND JUDICIAL PROCEDURES ARE BASED ON THE FRENCH SYSTEM FOR CERTAIN CATEGORIES OF CASES AND ON TRADITIONAL LAW (DROIT COUTUMIER) FOR OTHERS. THESE SYSTEMS PREVAIL IN THE MAJORITY OF CASES. DETENTION WITHOUT TRIAL DOES EXIST, HOWEVER. IN THE ROLE OF AFRICAN CHIEF, PRESIDENT EYADEMA DOES MAKE UNILATERAL JUDGEMENTS. HE RECEIVES PETITIONERS, RENDERS DECISIONS IN DISPUTES, AND DIGS INTO HIS POCKET FOR SUPPLICANTS. A NON-OFFICIAL AMERCAN VISITOR REPORTED RECENTLY THAT THE MAN WHOSE NAME WAS BEFORE HIS ON THE LIST OF THOSE TO VISIT PRESIDENT EYADEMA AT HIS UP-COUNTRY HOME WAS AN ILLITERATE FARMER SEEKING SOLACE AND JUSTICE FROM THE PRESIDENT BECAUSE SOMEONE HAD WOOED HIS WIFE AWAY FROM HIS HEARTH.

7. INDEPENDENCE OF THE JUDICIARY AND STATE SECURITY TRIAL OF MERCENARIES - WHEN INDEPENDENCE OF THE JUDICIARY WAS ABOLISHED IN 1976 MANY TOGOLESE MAGISTRATES EXPRESSED THEIR CONCERN. THEY WOULD STILL LIKE TO SEE A SEPARATION

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C O N F I D E N T I A L SECTION 02 OF 02 LOME 04139

OF POWERS, BUT MAINTAIN THAT MOST CASES REMAIN IN THE REALM OF THE MINISTRY OF JUSTICE RATHER THAN WITH THE EXECUTIVE. AT THE TIME OF THE STATE SECURITY TRIAL, SOME TOGOLESE MAGISTRATES ALSO CONTENDED THAT THE DEGREE OF GUILT OF ALL THE ACCUSED WAS NOT THOROUGHLY ESTABLISHED. THEY AGREE THAT UNDER FRENCH AND ANGLO-SAXON LAW, PRESS ACCOUNTS DO NOT CONSTITUTE VALID EVIDENCE. THE AI DESCRIPTIONS OF THE MERCENARY PLOT, ARRESTS, CONFESSIONS AND NEWSPAPER ACCOUNTS ARE GENERALLY ACCURATE. AN EMBASSY OBSERVER AS WELL AS AI REP ATTENDED ALL SESSIONS OF THE TRIAL, THE PROCEEDINGS OF WHICH WERE BROADCAST TO CROWDS OF TOGOLESE AROUND THE COURTHOUSE AND ON THE RADIO. (A WELL-BOUND WHITE PAPER HAS SUBSEQUENTLY BEEN PUBLISHED.) THE ACCOUNT OF SENTENCES IS ACCURATE BUT THE DATE OF PRESIDENT EYADEMA'S COMMUTATION OF THE DEATH SENTENCES WAS AUGUST 30, NOT AUGUST 3. WE HAVE NO KNOWLEDGE OF THE DEATH OF BARNABAS AKU OR OF ARTHUR YENOUESSI, BUT HAVE HEARD THAT SATURNINE AYITE IS IN GOOD HEALTH IN THE LOME GENDARMERIE PRISON.

8. KIDNAPPINGS AND HARASSMENT - IT IS GENERALLY ACKNOWLEDGED THAT KODJOVI DE SOUZAS, TEYI LAWSON AND BENI LAWSON WERE REPATRIATED AGAINST THEIR WILL (KIDNAPPED, IF YOU WILL). BENI LAWSON AFTER DECLARATIONS IN THE TOGOLESE MEDIA THAT HE WOULD RESETTLE HERE, SKEDDADDLED TO FRANCE SOON THEREAFTER. BOTH WERE SHOWN ON TOGOLESE TELEVISION CONFESSING THEIR MISGUIDED ACTIONS. NEITHER EXHIBITED EVIDENCE OF TORTURE. THERE IS NO CURRENT POLICY OF HARASSMENT OF SOUTHERN FAMILIES. MANY ARE IN BUSINESS AND GOVERNMENT SERVICE IN TOGO AND MANY RESIDE UNPURSUED IN FRANCE AND OTHER COUNTRIES. THE DE SOUZA AND MEMBERS OF OTHER "SOUTHERN" FAMILIES PUBLICLY THANKED PRESIDENT EYADEMA IN EARLY 1980 FOR RESTORING THEIR RIGHTS AND GRANTING CITIZENSHIP TO THEIR CHILDREN.

9. HARSH CONDITIONS, TORTURE, AND DISAPPEARANCES - EMBASSY FIRST-HAND KNOWLEDGE ON PRISON CONDITIONS IS LIMITED TO THE LOME CENTRAL PRISON WHERE CONDITIONS ARE CROWDED AND FACILITIES RUDIMENTARY. IT IS ASSUMED FROM SECOND-HAND REPORTS THAT OVERCROWDING, POOR SANITATION/HYGENIC CONDITIONS AND INADEQUATE FOOD SERVICES PREVAIL IN MOST PLACES OF DETENTION. THE AGENCE FRANCE PRESS CORRESPONDENT RESIDENT IN LOME VISITED DETENTION SITES IN TOKOIN MILITARY CAMP FOLLOWING ALLEGATIONS OF HARSH CONDITIONS BY AI IN JULY 1979. HE NOTED THAT HE SAW NO EVIDENCE OF MISTREATMENT, THAT PRISONERS WERE IN VERY SMALL CELLS...THAT SOME CELLS HAD WINDOWS WITH NO BARS WHICH HAD BEEN BOARDED SHUT FOR SECURITY (REF D). ONLY MILITARY AND PARA-MILITARY ARE NORMALLY GRANTED ACCESS TO TOKOIN, LAMA KARA, AND TEMEDJA MILITARY PRISONS AND DETENTION FACILITIES. RUMORS WERE RAMPANT IN NOVEMBER 1978 THAT TWO CUSTOMS OFFICIALS ARRESTED FOR CORRUPTION COLLAPSED AFTER BEING SUBJECTED TO FORCED MARCHES WITH HEAVY PACKS (REF E). IN LATE FEBRUARY 1980, EMBASSY HEARD THAT A CLERK WITH THE GENDARMERIE HAD DIED AS A RESULT OF HAVING BEEN BEATEN. THE DEATH OF A GENDARME WAS NOTED IN THE TOGOLESE PAPER LA NOUVELLE

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MARCHE (REF F). WE HAVE HEARD NO REPORTS ON THE DEATH OF BARNABAS AKU. JOURNALIST ATA KOSSI QUIST ATTENDED EMBASSY JULY 4 RECEPTION THIS YEAR. IT IS BELIEVED THAT INTEREST IN HIS CASE DISPLAYED BY INTERNATIONAL JOURNALISTS AND PAO MAY HAVE PLAYED A ROLE IN HIS RELEASE. THE EMBASSY HAS NO INFORMATION ON ANTOINE LAWSON.

10. ADDITIONAL EMBASSY COMMENT ON HUMAN RIGHTS IN TOGO - RIGHTLY OR WRONGLY, THE LOME DIPLOMATIC CORPS, SOME GOT OFFICIALS, AND MANY JOURNALISTS CREDIT MISSION EFFORTS ON BEHALF OF HUMAN RIGHTS WITH PRESIDENT EYADEMA'S COMMUTATION OF DEATH SENTENCES AUGUST 30 1979 AND JANUARY 13 1980 AND WITH THE GROWING AWARENESS ON THE PART OF TOGOLESE LEADERS OF THE NEED TO ADHERE TO HUMAN RIGHTS PRINCIPLES. ALTHOUGH THEIR PRACTICES ARE NOT YET UP TO AMERICAN OR WESTERN EUROPEAN STANDARDS, PROGRESS IS BEING MADE. EMBASSY BELIEVES THAT CONTINUED SUBTLE ATTENTION TO THE REWARDS OF PRACTICING HUMAN RIGHTS WITHIN A CONSTITUTIONAL SYSTEM WILL BENEFIT TOGO AND U.S.-TOGOLESE RELATIONS. JOHNSON

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C O N F I D E N T I A L STATE 212887

E.O. 12065: GDS 08/07/86 (TULL, THERESA A.)

TAGS: SHUM, ICRC, TO

SUBJECT: AMNESTY INTERNATIONAL REPORT

REF: A) LONDON 15622; B) STATE 18396

1. (UNCLASSIFIED) THE FOLLOWING PRESS RELEASE AND STATEMENT WAS ISSUED AUGUST 1, 1980 BY AMNESTY INTERNATIONAL:
QUOTE AMNESTY INTERNATIONAL STATEMENT ON TOGO.
-- IN RECENT WEEKS THE GOVERNMENT OF TOGO HAS PLACED ADVERTISEMENTS IN A NUMBER OF MAJOR U.S. NEWSPAPERS. BECAUSE AMNESTY INTERNATIONAL IS MENTIONED IN THESE ADS, THERE MAY BE SOME CONFUSION AS TO AI'S WORK ON HUMAN RIGHTS VIOLATIONS IN TOGO. FOR THIS REASON, AMNESTY INTERNATIONAL U.S.A. IS RELEASING THE ATTACHED STATEMENT WHICH SUMMARIZES AI'S CONCERNS WITH REGARD TO HUMAN RIGHTS VIOLATIONS IN TOGO OVER THE PAST YEAR.

-- AMNESTY INTERNATIONAL'S MAJOR CONCERNS WITH REGARD TO HUMAN RIGHTS IN TOGO ARE DETENTION WITHOUT TRIAL, UNSATISFACTORY TRIAL PROCEDURES, POOR PRISON CONDITIONS AND THE DEATH PENALTY.

-- IN OCTOBER 1977 A CONSPIRACY TO OVERTHROW THE GOVERNMENT OF PRESIDENT GNASSINGBE EYADEMA WAS REPORTEDLY FOILED. ARRESTS IN CONNECTION WITH THE ALLEGED PLOT HAD BEGUN IN NOVEMBER 1978, WHEN SATURNIN AYITE, KOUASSIVI DE SOUZA AND KOMLAN DE SOUZA WERE DETAINED. IN 1979 MORE THAN 38 PEOPLE (INCLUDING SEVEN CHILDREN UNDER THE AGE OF 12) WERE ARRESTED AND HELD WITHOUT CHARGE OR TRIAL FOR PERIODS RANGING FROM A FEW DAYS TO SEVERAL MONTHS. ALL WERE MEMBERS OF TOGO'S "SOUTHERN" FAMILIES, OFFICIALLY SUSPECTED OF HAVING BACKED THE ALLEGED PLOT, AND WERE USUALLY FRIENDS OR RELATIVES OF INDIVIDUALS WHOM THE GOVERNMENT WAS SEEKING TO ARREST IN CONNECTION WITH THE ALLEGED PLOT.

-- ON JUNE 3, 1979, TWO TOGOLESE EXILES, KOOJOVI DE SOUZA AND TEYI LAWSON, WERE KIDNAPPED IN GHANA AND FORCIBLY RETURNED TO TOGO. SHORTLY AFTERWARDS, THE GOVERNMENT-CONTROLLED NEWSPAPER PUBLISHED STATEMENTS ALLEGED TO HAVE BEEN MADE BY KOOJOVI DE SOUZA, IN WHICH HE CONFESSED TO AN INVOLVEMENT IN THE PREPARATION OF THE ALLEGED PLOT OF OCTOBER 1977. ON THE BASIS OF THESE CONFESSIONS, WHICH AMNESTY INTERNATIONAL BELIEVES TO HAVE BEEN OBTAINED UNDER TORTURE, OTHER INDIVIDUALS WERE ARRESTED, INCLUDING MAJOR KOUAO SANVEE AND BUSINESSMAN, LANYO SAVI DE TOVE.

ON 6 JULY, WHEN 18 PEOPLE REMAINED IN DETENTION, THE GOVERNMENT ANNOUNCED ITS DECISION TO CONVENE THE STATE SECURITY COURT TO TRY THOSE CHARGED WITH COMPLICITY IN THE "MERCENARIES AFFAIR."

-- ON JULY 19, 1979, AMNESTY INTERNATIONAL MADE PUBLIC ITS FEAR THAT THE FORTHCOMING STATE SECURITY COURT TRIAL WOULD NOT PROVIDE THE ACCUSED WITH A FAIR AND IMPARTIAL HEARING. HIGH-RANKING GOVERNMENT OFFICIALS, INCLUDING TWO OF THE STATE SECURITY COURT'S JUDGES, HAD PUBLICLY PROCLAIMED THE GUILT OF THE ACCUSED IN JUNE 1979. THE INDEPENDENCE OF THE JUDICIARY HAD BEEN FORMALLY ABOLISHED IN 1976, WHEN MAGISTRATES CAME UNDER THE DIRECT CONTROL OF THE STATE. IN ITS COMMUNIQUE, AMNESTY INTERNATIONAL REITERATED ITS APPEAL TO THE GOVERNMENT TO ALLOW AN OBSERVER TO ATTEND THE TRIAL PROCEEDINGS AND EXPRESSED ITS CONCERN AT THE CONTINUING RECOURSE TO DETENTION WITHOUT CHARGE OR TRIAL, THE PRACTICE OF TORTURE, THE POOR CONDITIONS PREVALENT IN TOGOLESE PRISONS, AND WHAT APPEARED TO BE A DELIBERATE GOVERNMENT POLICY OF HARASSMENT AGAINST "SOUTHERN" FAMILIES. IN A PUBLIC STATEMENT A FEW DAYS LATER, THE TOGOLESE GOVERNMENT REBUTTED THESE CHARGES AND DECLARED ITS WILLINGNESS TO ACCEPT INTERNATIONAL OBSERVERS AT THE TRIAL.

-- THE STATE SECURITY COURT SAT ON 23 AND 24 AUGUST 1979 AND WAS ATTENDED BY THE PUBLIC AND INTERNATIONAL OBSERVERS. TWO OF THE SEVEN ACCUSED WERE ACQUITTED AND FIVE WERE FOUND GUILTY OF "CONSPIRING...TO OVERTHROW OR CHANGE THE TOGOLESE GOVERNMENT...OF COMMITTING OR BEGINNING ACTS IN PREPARATION OF ITS EXECUTION...AND OF POSSESSING ARMS...." KOOJOVI DE SOUZA AND KOUAO SANVEE WERE SENTENCED TO DEATH, AND THREE OTHERS WERE GIVEN PRISON SENTENCES OF BETWEEN TEN AND FIVE YEARS. EIGHT OTHER ACCUSED WERE SENTENCED TO DEATH IN ABSENTIA. ON AUGUST 3, 1979, PRESIDENT EYADEMA COMMUTED THE DEATH SENTENCES AGAINST KOOJOVI DE SOUZA AND KOUAO SANVEE TO LIFE IMPRISONMENT. THREE OF THOSE ARRESTED IN CONNECTION WITH THIS AFFAIR WERE NOT BROUGHT TO TRIAL. ACCORDING TO OFFICIAL REPORTS, SATURNIN AYITE AND ARTHUR YEHOUESSI WERE AMONG 34 DETAINEES FREED IN A PRESIDENTIAL AMNESTY ON JANUARY 12, 1980. THE THIRD, BARNABAS AKU, DIED IN HOSPITAL IN LATE 1979 ONLY TWO WEEKS AFTER HIS RELEASE FROM PRISON. AMNESTY INTERNATIONAL REMAINS CONCERNED ABOUT THE FATE OF SATURNIN AYITE, WHOSE STATE OF HEALTH AND WHEREABOUTS HAVE BEEN THE SUBJECT OF SEVERAL ENQUIRIES TO THE TOGOLESE GOVERNMENT.

-- IN ITS TRIAL OBSERVATION REPORT, AMNESTY INTERNATIONAL STATED THAT, DESPITE STRICT REGARD FOR PROCEDURE DURING THE HEARING, THE DEGREE OF GUILT OF THE ACCUSED WAS NOT ESTABLISHED ADEQUATELY IN COURT AND THAT THE SENTENCES PASSED ACCORDINGLY APPEARED UNWARRANTED AND SEVERE. FURTHER, THE REPORT NOTED THAT THE RIGHT TO DEFENSE COUNSEL AT ALL STAGES OF THE JUDICIAL PROCESS HAD NOT BEEN RESPECTED AND THAT MATERIAL GIVEN WIDE COVERAGE IN THE TOGOLESE PRESS DURING JUNE 1979 HAD CONSTITUTED AN ESSENTIAL PART OF THE PROSECUTION'S CASE. AMNESTY INTERNATIONAL CALLED ON THE TOGOLESE AUTHORITIES TO RELEASE OR RETRY THE PRISONERS. THE GOVERNMENT HAS ANSWERED THAT IT WILL NOT ACCEDE TO THIS APPEAL. IN LATE APRIL 1980, AN AMNESTY INTERNATIONAL MISSION WAS RECEIVED BY PRESIDENT EYADEMA IN LOME.

-- AMNESTY INTERNATIONAL HAS RECEIVED NUMEROUS REPORTS THAT ARREST AND DETENTION WITHOUT CHARGE OR TRIAL IN TOGO ARE BOTH KNOWN TO AND ENCOURAGED BY PRESIDENT EYADEMA. HE IS RELIABLY REPORTED TO PLAY AN ACTIVE ROLE IN THE INTERROGATING OF INDIVIDUALS SUSPECTED OF HOLDING VIEWS CRITICAL OF THE GOVERNMENT AND TO USE HIS PERSONAL